

## **Victims' Compensation Assistance Program Advisory Council**

**November 18, 2019  
Delaware State Police Museum  
1425 N. DuPont Highway  
Dover, DE 19901**

**Members Present:** Debra Reed, Chair, police advocate; Erin Connelly, VRTF; Ernst Arndt, Kent County Public Member; Gloria Smith, DVTF; Patricia Dailey Lewis, City of Wilmington Public Member; Stephanie Hamilton, SAND; and Abigail Layton, DOJ.

**Nonmembers Present:** Paige Schmittinger, VCAP Executive Director; Dale Wyatt, VCAP Senior Investigator; and Eric Hastings.

**Welcome and Introductions:** The meeting was called to order at 10:06am and introductions were made.

**Approval of the Minutes:** Chair Debra Reed explained to the Council that the May meeting minutes needed to be voted on as there was not a quorum at the October meeting. Ernst Arndt made a motion to approve the May 2019 minutes with a second by Patricia Dailey Lewis. All agreed and the minutes were approved. The October meeting minutes were reviewed. Ernst Arndt made a motion to approve the October 2019 minutes with a second by Abigail Layton. Stephanie Hamilton abstained as she was not in attendance at the October 2019 meeting. All others agreed and the minutes were approved.

### **Old Business**

**Financial Report:** Executive Director Paige Schmittinger explained that federal PMT reporting was just completed for the period of July to September 2019. During the reporting period, VCAP rendered 731 payments on 453 claims totaling \$642,497.94. 373 new applications were received during the reporting period. Ms. Schmittinger created pie charts from the reported data and presented them to the group.

Patricia Dailey Lewis asked about child physical abuse being 0% and asked whether VCAP has reached out to the CAC. Paige stated that the CAC was at attendance at the VCAP presentation at the 2019 Victim Services Conference and is interested in having VCAP come do a training. Paige acknowledged that this is an area where VCAP needs to do more outreach. Paige has been reaching out to the leadership in the Juvenile Delinquency Unit and recently conducted a statewide training of SROs.

**Membership Vacancy:** Executive Director Paige Schmittinger reminded the Council that the member-at-large in the Mental Health Profession is still vacant.

**Funeral and Burial Benefits:** Since the last meeting, Ms. Schmittinger received feedback from Deputy Attorneys General in the Homicide Unit regarding the VCAP Eligibility Form that was presented at the October meeting. The form was revised in accordance with the suggestions made by the DOJ. The revised form was presented to the Council for comment. There were

suggestions and discussions surrounding the language about possessing a gun. It was agreed that a subpart to the question “was not in possession of a firearm at the time of injury or death” asking if the victim was a person prohibited was necessary. Paige agreed to add an additional question.

### **Statutory and Regulation Changes:**

Debra Reed asked a general question about VCAP eligibility when the victim is engaged in illegal activity. Executive Director Schmittinger explained that the way the statute is currently drafted, there is no discretion to make an award when something the victim is engaged in illegal activity at the time of the crime. One area where this creates an issue is when prostitutes are sexually assaulted. The only way to remedy this is a statutory change. The Council is in support of a statutory change.

Executive Director Schmittinger presented a regulation on the funeral and burial benefit. The goal of drafting this regulation is that a victim’s family could have a funeral and burial without having to pay anything out of pocket unless they wanted to add-on services. Ernst Arndt suggested a change in verbiage to make the regulations parallel. A concern was raised by Stephanie Hamilton regarding what would happen if funeral homes would not be willing to accept VCAP. The general consensus was that this would be a problem VCAP would be able to overcome. Executive Director Schmittinger will be reaching out to the Cemetery Board and Funeral Homes Board.

Executive Director Schmittinger presented a regulation on the payment of mental health claims. The current regulation regarding the payment of mental health claims states that VCAP will pay at a “rate set by VCAP,” but rates were never set. This created inconsistency in the payment of mental health claims. Currently, mental health claims are being paid at 80% of the billed rate. The goal of this regulation is to make the payment of mental health claims more consistent. Patricia Dailey Lewis suggested that the regulation more clearly spell out the “hourly” or “unit” rate. Stephanie Hamilton suggested VCAP look into third-party billing to get rates. She will reach out and get names to give them to Paige Schmittinger. Executive Director Schmittinger brought up the idea of a session cap and how it may help control the payment of mental health claims. She proposed that this should be a statutory change rather than a regulation change. All agreed.

Executive Director Schmittinger presented a proposed regulation on the temporary housing benefit. Ernst Arndt suggested a language change from “must” to “shall.” There was discussion surrounding the proposed requirement in domestic violence cases that the shelter be utilized. It was stated that there are times where the shelter is not an option. Stephanie Hamilton brought up her concerns about the 45-day rule that appears in Regulation 11.3. She wanted to hold off on the Council approving the regulation and take the draft to the different task forces (VRTF, DVTF, and SAND) for comment. Debra Reed suggested that the regulation draft should not be sent around to the task forces. Paige Schmittinger explained that all of the regulation drafts are part of VCAP’s internal strategic planning meetings and that this regulation will be reviewed with them.

Paige Schmittinger asked if there were suggestions as to the next proposed regulations to be presented. Lost wages, loss of support, and moving and relocation were suggested.

### **New Business**

#### **Trends in Victims Compensation:**

Paige Schmittinger presented trends in Victims' Compensation. There have been an uptick in vehicular crimes as well as an uptick in internal DOJ referrals. VCAP has been doing internal DOJ training, which may account for the uptick in DOJ referrals. VCAP is now fully staffed as of October 2019. The current case processing time is 19 days. VCAP is also testing a new way to assign cases that they are piloting through the end of the year which would "specialize" investigators by category: Domestic Violence, Sexual Assault, Homicide/Vehicular Homicide, and Non-Fatal Felonies.

#### **Trends in VCAP Advisory Council:**

Patricia Dailey Lewis spoke about Bradley victims and the need to utilize the Latent Injury Trust. The DOJ has been asked to file a motion to open up the Trust to be able to serve more Bradley victims. Paige Schmittinger explained that VCAP has received 6 to 8 claims recently that were referred to the Latent Injury Trust.

Stephanie Hamilton asked a question regarding dog attacks and whether coverage of these types of attacks could be added to the statute. Paige Schmittinger explained that there would still need to be a qualifying crime and that could be an obstacle; however, Vermont has some coverage surrounding animals that Paige will look into.

**Trends from the Advocacy Community:** None.

**Public Comment:** None.

**Meeting adjourned at 12pm with a motion by Abigail Layton and a second by Patricia Dailey Lewis.**